

108TH CONGRESS
1ST SESSION

H. R. 3318

To amend the Internal Revenue Code of 1986 to exclude from gross income employer contributions to college tuition plans and education savings accounts.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2003

Mr. PORTER (for himself, Mr. GERLACH, Mr. COLE, Mr. CARTER, Mr. WILSON of South Carolina, Mr. PAUL, Mr. BARRETT of South Carolina, Mr. NUNES, Mr. ROGERS of Michigan, Mr. PLATTS, Mr. BURNS, Mr. KING of Iowa, Mr. GARRETT of New Jersey, and Mrs. MUSGRAVE) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income employer contributions to college tuition plans and education savings accounts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Education Savings Act
5 of 2003”.

1 **SEC. 2. EXCLUSION FROM GROSS INCOME FOR CONTRIBU-**
2 **TIONS TO EDUCATION SAVINGS ENTITIES.**

3 (a) IN GENERAL.—Part III of subchapter B of chap-
4 ter 1 of the Internal Revenue Code of 1986 (relating to
5 items specifically excluded from gross income) is amended
6 by inserting after section 127 the following new section:

7 **“SEC. 127A. CONTRIBUTIONS TO EDUCATION SAVINGS EN-**
8 **TITIES.**

9 “(a) IN GENERAL.—Gross income of an employee
10 does not include amounts paid by the employer as con-
11 tributions to an education savings entity held by the em-
12 ployee or spouse of the employee if the contributions are
13 made pursuant to a program which is described in sub-
14 section (b).

15 “(b) EDUCATIONAL ASSISTANCE PROGRAM.—For
16 purposes of this section, an educational assistance pro-
17 gram is a separate written plan of an employer for the
18 benefit of such employer’s employees—

19 “(1) under which the employer makes contribu-
20 tions to education savings entities of such employees
21 or spouses of employees, and

22 “(2) which meets requirements similar to the
23 requirements of paragraphs (2), (3), (4), (5), and
24 (6) of section 127(b).

25 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
26 poses of this section—

1 “(1) EDUCATION SAVINGS ENTITY.—The term
2 ‘education savings entity’ means—

3 “(A) a qualified tuition program (as de-
4 fined in section 529(b)), and

5 “(B) a Coverdell education savings account
6 (as defined in section 530(b)).

7 “(2) EMPLOYEE AND EMPLOYER.—The terms
8 ‘employee’ and ‘employer’ shall have the meaning
9 given such terms by paragraphs (2) and (3), respec-
10 tively, of section 127(c).

11 “(3) APPLICABLE RULES.—Rules similar to the
12 rules of paragraphs (4), (5), (6), and (7) of section
13 127(c) shall apply.

14 “(d) CROSS REFERENCE.—For reporting and record-
15 keeping requirements, see section 6039D.”.

16 (b) EXCLUSION FROM EMPLOYMENT TAXES.—

17 (1) Section 3121(a)(18) of such Code is amend-
18 ed by striking “or 129” and inserting “, 127A, or
19 129”.

20 (2) Section 3231(e)(6) of such Code is amended
21 by striking “section 127” and inserting “section 127
22 or 127A”.

23 (3) Section 3306(b)(13) of such Code is amend-
24 ed by striking “or 129” and inserting “, 127A, or
25 129”.

1 (4) Section 3401(a)(18) of such Code is amend-
2 ed by striking “or 129” and inserting “, 127A, or
3 129”.

4 (c) REPORTING AND RECORDKEEPING REQUIRE-
5 MENTS.—Section 6039D(d)(1) of such Code is amended
6 by inserting “127A,” after “127,”.

7 (d) OTHER CONFORMING AMENDMENTS.—

8 (1) Section 51A(b)(5)(B) of such Code is
9 amended by striking “or” at the end of clause (iii),
10 by redesignating clause (iv) as clause (v), and by in-
11 serting after clause (iii) the following new clause:

12 “(iv) section 127A (relating to con-
13 tributions to education savings entities),
14 but only to the extent paid or incurred to
15 a person not related to the employer, or”.

16 (2) Section 125(f) of such Code is amended by
17 inserting “127A,” after “127,”.

18 (3) Section 132(j)(8) of such Code is amended
19 by striking “section 127” and inserting “section 127
20 or 127A”.

21 (4) Section 414(n)(3)(C) of such Code is
22 amended by inserting “127A,” after “127,”.

23 (5) Section 414(t)(2) of such Code is amended
24 by inserting “127A,” after “127,”.

1 (6) Section 1397(a)(2)(A) of such Code is
2 amended by inserting at the end the following new
3 clause:

4 “(iii) Any amount paid or incurred by
5 an employer which is excludable from the
6 gross income of an employee under section
7 127A, but only to the extent paid or in-
8 curred to a person not related to the em-
9 ployer.”.

10 (7) Section 209(15) of the Social Security Act
11 (42 U.S.C. 409(15)) is amended by striking “or
12 129” and inserting “, 127A, or 129”.

13 (e) CLERICAL AMENDMENT.—The table of sections
14 for part III of subchapter B of chapter 1 of such Code
15 is amended by inserting after the item relating to section
16 127 the following new item:

 “Sec. 127A. Contributions to education savings entities.”.

17 (f) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to remuneration paid after Decem-
19 ber 31, 2003.

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